

Proposed Local Rule Changes
LR 58 to replace 83.9
Modification of LR 72.1(a)

~~LR 83.9 COLLATERAL IN PETTY OFFENSE MATTERS~~

~~Pursuant to Rule 9, Federal Rules of Procedure for United States Magistrate Judges, and in the interest of justice, good court administration, and sound law enforcement, all United States Magistrate Judges and the Clerk of Court within this district are hereby designated and authorized to accept collateral in lieu of the appearance of any person accused of violating petty offenses whether originating under federal statute or regulation or applicable state statute by virtue of the Assimilated Crimes Act, 18 U.S.C. § 13.~~

~~A list of the offenses, together with the amount of collateral to be posted therefor, shall be prepared by those full-time Magistrate Judges appointed by the Court. The list shall be filed in the Clerk's offices throughout this district and upon filing shall become effective. No collateral shall be permitted for offenses not listed. The list may be amended from time to time by the Magistrate Judges by filing with the Clerk's offices.~~

~~Upon failure of the person charged to appear before the United States Magistrate Judge for trial of the offense listed in the schedules, the collateral in the amount listed shall be administratively forfeited to the United States without further order.~~

~~If a person charged with an offense listed and filed under this rule fails to post collateral, any punishment within the limits established by law, including fine, imprisonment, or probation, may be imposed upon conviction.~~

~~If, within the discretion of the law enforcement officer, the offense is of an aggravated nature, the law enforcement officer, notwithstanding this rule may require appearance, and any punishment established by law, including fine, imprisonment, or probation, which may be imposed upon conviction. Nothing contained in this rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and taking such person immediately before a United States Magistrate Judge or requiring the person charged to appear before a United States Magistrate Judge.~~

~~[Adopted effective February 1, 1991]~~

Replace LR 83.9 with LR 58 as follows below:

LR 58 - FIXED-SUM PAYMENT IN PETTY OFFENSE MATTERS

(a) Authority To Accept Fixed-Sum Payment (In General). Pursuant to Fed. R. Crim. P. Rule 58(d)(1), ("Paying a Fixed Sum in Lieu of Appearance"), and in

accordance with the provisions of this Rule, all United States Magistrate Judges and the Clerk of Court within this District are hereby designated and authorized to accept fixed-sum payments in lieu of the Defendant's appearance in petty offense cases (see 18 U.S.C. § 19), whether originating under federal statute or regulation or applicable state statute by virtue of the Assimilated Crimes Act, 18 U.S.C. § 13.

(b) Cases In Which Fixed-Sum Payment May Be Accepted (Fixed-Sum Payment Schedule). The Court's full-time Magistrate Judges shall prepare and maintain a schedule of petty offenses for which a fixed-sum payment may be accepted in lieu of the Defendant's personal appearance in petty offense cases, which shall specify the amount of the fixed-sum payment required for each listed offense. The fixed-sum payment schedule may include, without being limited to, offenses charged by the following federal agencies:

- * The Bureau of Land Management
- * The United States Air Force
- * The United States Army Corps of Engineers
- * The National Park Service
- * The United States Department of Veterans Affairs
- * The United States Fish and Wildlife Service
- * The United States Forest Service
- * The United States General Services Administration (Federal Protection Services)

The fixed-sum payment schedule shall be filed in the Clerk's offices throughout this District and upon filing shall become effective. A fixed-sum payment, in lieu of a Defendant's personal appearance, is permissible only for alleged offenses that are specifically listed in the fixed-sum payment schedule. The fixed-sum payment schedule may be amended from time to time by the Magistrate Judges by filing with the Clerk's offices.

(c) Effect Of Payment. A Defendant who pays a fixed-sum payment for a petty offense pursuant to this Rule waives the right to contest the charged offense.

(d) Non-appearance. If a Defendant does not pay a fixed-sum payment pursuant to this Rule, and if the Defendant also fails to make a required personal appearance for a charged petty offense, then the Magistrate Judge, at his or her discretion, may take any of the following actions:

(i) the Magistrate Judge may impose any punishment, including fine, imprisonment or probation, within the limits established by law upon conviction or after trial;

(ii) the Magistrate Judge may direct that a new summons be issued, ordering the Defendant to appear on a new date;

(iii) the Magistrate Judge may order that a warrant be issued for the Defendant's arrest.

(e) Aggravated Offenses. If, within the discretion of the law enforcement officer, a petty offense is of an aggravated nature, the law enforcement officer may require the Defendant to personally appear in court, and any punishment including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction or after trial.

(f) Personal Appearance Required. Nothing contained in this Rule shall prohibit law enforcement officers from arresting a person for the commission of any offense, including those for which fixed-sum payment might otherwise be paid, and requiring the person charged to appear before a United States Magistrate Judge or, upon arrest, taking the person, without unnecessary delay, before a United States Magistrate Judge.

LR 72.1 MAGISTRATE JUDGE DUTIES

(a) In every case to which they are assigned, each United States Magistrate Judge appointed by this court is hereby designated to perform the following duties authorized by Title 28 United States Code, Section 636:

- i. Conduct scheduling conferences and enter a pretrial schedule;
- ii. Hear and determine any pretrial matter pending before the court, except: A motion for injunctive relief; for judgment on the pleadings; for summary judgment; to dismiss or to permit maintenance of a class action; to dismiss for failure to state a claim upon which relief can be granted; or to involuntarily dismiss an action;
- iii. Conduct hearings, including evidentiary hearings, and submit to the District Judge assigned to the case, proposed findings of fact and recommendations for the disposition of:
 - (1) dispositive pretrial motions in criminal cases, including but not limited to motions to dismiss or quash an indictment or information made by a defendant, and motions to suppress evidence;
 - (2) applications for relief under Title 28 United States Code, Sections 2241 and 2254;
 - (3) prisoner petitions challenging conditions of confinement; and
 - (4) motions for summary judgment in Social Security appeals filed pursuant to Title 42 United States Code, Section 405;

- iv. Conduct arraignments in criminal cases; ~~and~~
- v. Conduct settlement conferences in civil cases~~;~~ ~~and~~
- vi. Conduct trials of persons accused of, and sentence persons convicted of petty offenses, and with the consent of the defendant, other misdemeanors committed within this District, as allowed by Title 18 U.S.C. §3401(a).